ectt. II-27—50,006—23-11-42.

Dev (1942) Department.

Ms. SERIES.

Passed

G.O. No. 2672

Dated 20-10-43.

[Despatch Abstract.]

Textiles Cotton Cloth and Yarn (Control) Order 943, — Violation of cl 4(1)

Gurubasappa Son of Dundappa of Shilavanth & Sons, Kottur (Bellary) — Prosecution — Sanctioned

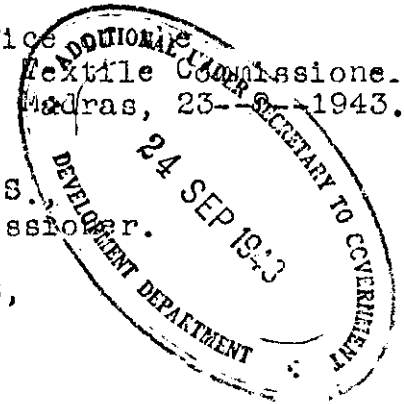
29588

Very Urgent.

V. Urgent

Rc. No. 662/423 24/9/43

Office of the Provincial Textile Commissione., San Thome, Madras, 23--9--1943.



From

S. Venkateswaran Esq., I.C.S.,
Provincial Textile Commissioner.

To

The Secretary to Government,
Development Department,
Fort St. George,
Madras.

Sir,

Sub: Cotton Cloth and Yarn (Control) Order, 1943 - Violation of clause 14(1) - GuruBasappa Dondappa Sheelavanth Kottur - Bellary Dt. - Prosecution - Sanction - Requested.

Guru Basappa Dondappa Sheelavanth and Sons, Kottur, Bellary District, is a licensed dealer in yarn. On 9-9-43, the Textile Control Officer, Bellary inspected the licensee's

P T O

stocks and found him to be in possession of two unopened mill packed bales of 20s yarn manufactured before 1st August 1943--Vide the enclosed copy of the Textile Control Officer's report dated 9--9--1943. He has not offered them for purchase by the Government of India nor has he expressed any intention to make such an offer. He has thus contravened clause 14 (1) of the Cotton Cloth and Yarn (Control) Order 1943. I therefore request that sanction may be accorded to prosecute this firm represented by its proprietor Gurubasappa Son of Dandappa.

For Provincial Textile Commissioner.

T.S.23/9.

Extract of letter dated 9-9-43 from the Textile Control Officer, Bellary to the Yarn Commissioner, Madras.

Sub: Industries - Yarn dealers - Kudligi Taluk - Kottur village - Report submitted.

I inspected the stocks and accounts of the licensee Gurubasappa Sheelavanth of Kottur village on 9-9-43. Under clause 14(1) of the Cotton cloth and Yarn (Control) Order, 1943, there should not be any yarn that was manufactured before 31-8-43 in bales. I found two full bales packed by mills in perfect condition, containing 20s grey yarn with the dealer and he has admitted in his statement that he has kept the yarn in the bales, because there was no demand for it.

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Post copy of telephonic Message dated: 14--10--1943.

From: The Provincial Textile Commissioner, Madras.

To: The Secretary to Government, Development Department, Madras.

Ref: Post Copy of Telephonic Message dated 9--10--1943 from the Additional Under Secretary to Government, Development Department.

ADDITIONAL UNDER SECRETARY TO GOVERNMENT
16 OCT 43
DEVELOPMENT DEPARTMENT

The full name of the person to be prosecuted is Gurubasappa Son of Duddappa Proprietor of G.D.Shilvant and Sons as given by the party in his application for yarn licence.

15/x/43

For Provl. Textile Commissioner.

TMS.14/10.

15.x.43

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Development Department.

VE Inwhere for Sr's signature SM 20/10/43

Sub: Textiles - Cotton Cloth and Yarn (Control) Order, 1943 - Violation of clause 14(1) - Guru-basappa son of Dundappa of Shilavanth and Sons, Kottur, Bellary district - Prosecution - Sanctioned.

Ref: From the Provincial Textile Commissioner, Madras, No.662/43-B dated 23.9.1943.

Order Ms. 2672 d/ 20.10.43.

Under clause 23 of the Cotton Cloth and Yarn (Control) Order, 1943, His Excellency the Governor of Madras is hereby pleased to accord his previous sanctio to the prosecution of Sri Gurubasappa, son of Dundappa Proprietor of G.D. Shilavanth and Sons, Kottur, Bellary district for the contravention of the provisions of clause 14(1) of the said order as he had in his possession on 9th September 1943 two full bales of yarn manufactured before 1st August 1943.

Accepted (orun to SM) and. CMC 20/10/43

To the Dt.Magistrate, Bellary with a copy of P.T.C's letter.
To the P.T.C. Spare copy.

Y? 19/10/43

NOTE: Dev

Sub: Textiles - the Cotton Cloth and Yarn (Control) Order 1943 - Violation - Guru Basappa Dondappa Sheelavanti Kottur (Bellary) prosecution Sanction.

Ref: [From the P.T.C. No. 662/43 B. dt. 23.9.43.]

—o—

To Ad ns

The P.T.C. has submitted a case where a dealer in Yarn in Kottur (Bellary Dt) was violated the provisions of the Cotton Cloth & Yarn (Control) Order and requests Sanction for the prosecution of the offender.

Under clause 23 of the Cotton Cloth & yarn (Control) order 1943, previous Sanction of Govt. is necessary for prosecutions of persons for the Contravention of any of the provisions of the Order. In item (3) of para 3 of the note prepared by the Textile Commr. to Assist the Staff engaged in the administration of the Order Certain tests have been prescribed to see whether any dealer had a deliberate intention to violate the provisions of the Order. Neither the P.T.C. report nor the Textile officers letter give any indication to show that the officers recommending the prosecution in question the Officer Satisfied himself that there was a deliberate intention of hoarding the yarn & that the merchant had any genuine difficulty in disposing of the stock. There is also an indication that it is not the Central Govt.

intention that the merchants should not be unduly harassed. There is also no indication to show that this is not such a case. The statement is stated to have been given by the merchant but this also is not such as to ask for orders whether the P.T.C. may be asked to report specifically that the tests laid down in para 3(3) of the Note of the Textile Commissioner was applied & whether he was satisfied that there is a genuine case for prosecution & that if one is launched it is likely to succeed

p 1-3 (R)

Box

25.9.43 27.9.43

If we call for a report this will involve delay which is not desirable.

Sanction to prosecute may be given: that the P.T.C. may be told in a D.O. letter not to prosecute the offender unless the conditions laid down in cl 2(2) on p. 1 of (R) are satisfied

23/9/43. S.

I have discussed this with the P.T.C. He says that the dealer (copy & Cole) Rachna Mills Yarn on the 23rd July & based his decision to sell on Tuesday 31st August. Rachna Mills Yarn is popular & genuine attempts had been made by the Mills to get orders from customers. He should not have found any difficulty in disposing of the stocks. In any event there was no justification at all for not offering out the Coles before 31st August. Under the circumstances the P.T.C. says that he is satisfied that neither the contravention of Clause 4(C) 2 the Order is proved that there are no extenuating circumstances

such as would justify criminal treatment. Under Clause 23. the control order his prosecution may be sanctioned

27/9/43

Sanctd.

SM

27/9/43

To Ad. US.

Draft order Submitted

It is presumed that the Dt. Magt. will be asked to take steps to initiate the proceedings for the prosecution of the offenders and the Dt. Textile Control officer of the Dt assist the Dt Magt and to supply the evidence in the Conduct of the prosecution. Pub (sl) Home & Legal may see for remarks about the procedure to be adopted

Home

Sd/ 28.9.43 28/9/43 4/10/43 5.

4/10/43.

I could not consult the P.T.O. on the procedure to be followed for prosecuting the offenders, because he is not in the Office. The procedure suggested in the draft order below may be accepted

5/10/43 S.

The draft order should contain a brief description of the offence as well as the sanctioning authority should be signed by the Secretary & Sent. The P.T.C. wanted the order to be sent in duplicate, one to be filed in Court when the case for trial in this Court of receipt of the draft order.

3/10/43

put up Control order at once. why this delay? Adopt?

5/10/43.

heard Supply was taking proceedings.

5/10/43.

H/

Legal may advise whether an order sanctioning the prosecution of the firm would be proper or whether it is necessary & desirable in the order sanctioning the prosecution the names of the persons to be prosecuted against.

F.S. 5/10/43
Legal (Mr Smith - Norgate)

Legal Department

A firm as such has no corporate personality and cannot be prosecuted as such. It is only the individuals who were members of the firm on the date of the offence that can be prosecuted. The liability of each individual member of the firm will depend upon the extent of his participation, expressly or impliedly, in the acts or omissions constituting the offence, and should be considered separately.

Some formal alterations have been indicated in red ink on the draft below.

K.M. 6.10.43

Legal no. 639a-c / 6.10.43

As the Order has to be filed in Court, it seems necessary & desirable for a copy of the P.T.C.'s letter & Exhibit / I have forwarded to the Legal Secretary to the appeals.

To Addl U.S.

For orders whether the T. of R. below may issue.

this was submitted to Secy. personally on 6/10/43.
put up clean typed copy of note as amended by Legal & Secy's signature

8/10/43.

To Dd U.S.

Typed copy of draft is submitted.

9/10/43.

Received 9/10/43

Submitted: two copies signed by Secy. should go to P.T.C.

9/10/43.

[P.C. of Tm from P.T.C. of 4.10.43] — p 5 Cf

To Addrs

The Correct name as furnished by the P.T.C. is incorporated in the draft order below. For orders whether it may issue

put up a typed copy

To. Secy

I have consulted Leg. Secy. He says that it is doubtful whether a prosecution can be had under cl. 14(1) of the Control Order because the clause is not directed against any specific person.

We may however sanction the prosecution if such a case happens: whether a dealer is convicted or let off ultimately, our object will be achieved the prices of cloth & yarn will come down.

Extract

Action will be addressed separately to amend cl. 14(1) of the said clause of the Order

Draft order below has been informally approved by Leg. Secy: for orders if we may issue

19/10/43. S.

Extract

separate instruction will issue to D.Cs to arrange for the conducting of prosecutions under the Control Order when sanctioned by Govt.

Instruction will also issue separately to the P.T.C. asking it to send future cases in a prescribed form.

19/10/43 S. 19/10/43

[Issued as G.O. 2672 Dev. 20-10-43]